

WIGGINS CHILDS
PANTAZIS FISHER
GOLDFARB PLLC
Advocates & Litigators

A PROFESSIONAL LIMITED LIABILITY COMPANY
2202 18th Street, N.W. · # 110 · WASHINGTON, D.C. 20009-1813

Office Direct Dial: 202-467-4489 · Fax: 205-453-4907
Email: TFleming@wigginschilds.com · Internet: www.wigginschilds.com

TIMOTHY B. FLEMING
OF COUNSEL

February 28, 2023

Via ECF only

The Honorable Sarah Netburn
United States Magistrate Judge
UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

**Re: *In Re Terrorist Attacks on Sept. 11, 2001*, 03-MDL-1570 (GBD)(SN)
Ashton, et al. v. al Qaeda Islamic Army, et al., 02-cv-6977 (GBD)(SN)
Bauer, et al. v. al Qaeda Islamic Army, et al., 02-cv-07236 (GBD)(SN)
Ryan, et al. v. Islamic Republic of Iran, et al., 20-cv-00266 (GBD)(SN)
Ashton, et al. v. Kingdom of Saudi Arabia, 17-cv-2003 (GBD)(SN)**

Letter re: Court's Order of December 12, 2022 Order, MDL Doc. No. 8796

Dear Magistrate Judge Netburn:

We submit this Letter in compliance with the Court's order of December 12, 2022, to submit lists of parties and docket entries to assist the Court in completing the severance of the claims of four certain plaintiffs of the Maher family from *Bauer, et al. v. al Qaeda Islamic Army, et al.*, 02-cv-07236 and *Ashton, et al. v. al Qaeda Islamic Army, et al.*, 02-cv-6977 for placement of such claims into new cases to be created upon severance from *Bauer/Ashton* as well as transferring existing judgments against Iran into the existing *Ryan, et al. v. Islamic Republic of Iran, et al.*, 20-cv-00266 case.

The four *Bauer/Ashton* plaintiffs are: Katherine Maher, as personal representative of the Estate of Daniel L. Maher, and individually in her own right, and Daniel R. Maher and Joseph F. Maher (sons of 9/11 Decedent Daniel L. Maher). It should be noted that, as indicated on page 2 of the exhibit hereto, the claims of Daniel R. Maher and Joseph F. Maher in *Maher, et al. v. Islamic Emirate of Afghanistan a/k/a the Taliban, et al.*, a new case to be created by the Clerk, S.D.N.Y., upon severance, are not to include any claims against three particular named defendants whom the other plaintiffs (specifically, Katherine Maher, as personal representative of the Estate of Daniel L. Maher, and Katherine Maher, individually in her own right) do assert claims. That is because the two Maher sons present their claims against those three parties (the Taliban, al Qaeda, and Estate of Osama bin Laden) in *Grazioso, et al. v. Taliban, et al.*, 22-cv-1188.

This Letter supersedes our prior submission on this subject because the present lists include corrections regarding Defendants, and a few pleadings, from the lists we filed at MDL ECF No.

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8847-1. The corrected lists are filed herewith. We received helpful inputs from a number of counsel for other parties in this MDL.

As we noted in our previous submission at MDL ECF No. 8847, the Ryan family will be henceforth represented by John Schutty, Esq. The request for formal substitution of counsel, at MDL Doc. No. 8836, remains pending. We address herein only the claims of the Maher family, who we continue to represent.

Because this Letter supersedes our letter filed at MDL ECF No. 8847, we repeat herein the basis for this filing.

In the November 18, 2022 hearing, the Court asked the parties whether there was any problem with severing the claims of the involved plaintiffs *nunc pro tunc* and transferring them into new cases to be created upon severance and transferring necessary underlying and pending docket entries into the new cases and, in regard to Iran, the existing judgments into the existing *Ryan* case. The undersigned counsel and the Baumeister firm agreed in open court to this resolution of the matter. We understood the Court's order of December 12, 2022, was designed to facilitate that resolution. We undertook to review the status of the hundreds of defendants and two decades of docket entries in order to create the lists.

If we understand the Court's Order correctly, we have designated on the attached lists the docket entries of pending matters from the *Bauer* docket and the *Ashton* docket; we have not listed items that are no longer pending, but we do list orders with continuing application. Nor do we list all applicable items from the MDL docket because Your Honor's order did not call for it. We recognize that numerous MDL docket entries, *e.g.*, the Case Management Orders at MDL ECF 16, 247, and 248, do and will apply to the new cases. In our lists, there are some exceptions, particularly as to the Sudan cases, such as MDL ECF 6429 and 6537, pertaining to pleadings we did not find on the *Ashton* docket. The notations regarding the docket entries are either taken from the docket, in whole or in part, or are short summaries.

Given the number of defendants and the length of the dockets, we recognize it is possible that we missed some docket entries; if we do find others, we will file a letter motion for transfer of any such entries.

The Baumeister firm has reviewed this letter and does not oppose it.

Accordingly, we limit our submission of the lists requested by the Court to pending matters and orders pertaining to the Maher family: Katherine Maher, as personal representative of the Estate of Daniel L. Maher, and individually in her own right, and Daniel R. Maher and Joseph F. Maher (sons of 9/11 Decedent Daniel L. Maher).

Respectfully Submitted,

/s/ Timothy B. Fleming
Timothy B. Fleming (DC Bar No. 351114)
WIGGINS CHILDS PANTAZIS

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FISHER GOLDFARB PLLC
2202 18th Street, NW, #110
Washington, DC 20009-1813
tfleming@wigginschilds.com

Dennis G. Pantazis (AL Bar No. ASB-2216-A59D)
WIGGINS CHILDS PANTAZIS
FISHER GOLDFARB LLC (lead counsel)
The Kress Building
301 Nineteenth Street North
Birmingham, Alabama 35203
(205) 314-0500
dgp@wigginschilds.com

*Attorneys for Plaintiffs Katherine Maher, as
Personal Representative of the Estate of Daniel L.
Maher, Deceased, Katherine Maher, individually in
her own right, Daniel R. Maher, and Joseph F.
Maher*